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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/650,008

08/26/2003

David B. Dwyer

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EXAMINER

DIACOU, ARI M

ART UNIT

PAPER NUMBER

3663

MAIL DATE

DELIVERY MODE

10/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/650,008	<b>Applicant(s)</b> DWYER, DAVID B.	
	<b>Examiner</b> ARI M. DIACOU	<b>Art Unit</b> 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Prosecution Application***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8-15-2008 has been entered.

### ***Response to Arguments***

2. In the remarks filed 8-15-2008, applicant argued that the references relied upon fail to teach all aspects of the claimed invention as amended. The arguments are moot in view of the new grounds of rejection, which has been necessitated by amendment.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 3663

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-12 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs (USP No. 6389355) in view of Dame (USP No. 2004/0124998). Gibbs teaches a flight management system (FMS) that among other things, allows a pilot to view a current flight plan and a tentative flight plan, and change either. Gibbs is scant on details as to how the FMS communicates with air traffic control (ATC) and fails to explicitly state that his FMS can receive textual clearance from ATC – although he does display text of the next waypoint [Fig. 5, “target”] and that the FMS has a datalink [Fig. 11A, #1109] and [Col. 7, lines 2-13]. Dame teaches a system and protocol for relaying clearances from ATC to pilots in the attempt to replace voice based clearances with text based clearances. Dame discloses a display in Figs. 2-4 but fails to

Art Unit: 3663

disclose that the text messages can be displayed by a preexisting FMS. Therefore, it would have been obvious to one skilled in the art (e.g. a computer/software engineer) at the time the invention was made, to use the protocol of Dame but display the text messages and control the interface in the FMS of Gibbs, for the advantage of having the unambiguous clearance protocol of Dame, yet integrating it into the FMS of Gibbs as suggested by the design principles of FMS systems according to [Col. 1, lines 26-63] of Gibbs. The following claims are thereby rendered obvious, and mapped for the convenience of applicant:

- Regarding claim 24, An aircraft flight management display system for displaying textual air traffic control clearance messages transmitted to an aircraft, the system comprising:
  - a user interface configured to receive user input [Gibbs: Fig. 1, #104] and operable, in response thereto, to supply a user response signal [Gibbs: Fig. 1, #114];
  - a processor in operable communication with the user interface to receive the user response signal, [Gibbs: Fig. 16, #1605]
  - the processor adapted to receive
    - (i) data representative of a current aircraft flight plan, and [Gibbs: Fig. 16, #1605] [Gibbs: Col. 8, line 24-32]
    - (iii) one or more textual clearance message signals representative of the textual air traffic control clearance messages transmitted to

- the aircraft [Gibbs: Fig. 5, the information displayed after “target” was part of an ATC approved flightplan] [Dame: ¶ 0023]
- and operable, in response thereto, to supply (i) one or more flight plan display commands, (ii) user interface field display commands, and (iii) one or more textual clearance message display commands; and [Dame: ¶ 0020]
  - a display coupled to receive (i) the flight plan display commands, (ii) the user interface field display commands, and (iii) the textual clearance message display commands [Gibbs: Fig. 11] [Dame: #24]
  - and operable, in response thereto, to substantially simultaneously display
    - (i) one or more images representative of the current aircraft flight plan, [Gibbs: Figs. 15-19]
    - (ii) a user interface field, and [Gibbs: Fig. 11, #1102-1109] [Dame: Fig. 3A, #46-52]
    - (iii) the textual air traffic control clearance message transmitted to the aircraft [Dame: Fig. 3A, #38]
  - Regarding claim 23, claim 23 is broader than claim 24 and rejected over similar grounds, but includes limitations to a transceiver. Dame teaches the transceiver as claimed in the Abstract (“Controller-Pilot Data Link Communication”, of which a transceiver would be implied or inherent).
  - Regarding claim 1, claim 1 is broader than both claims 23 and 24 and rejected over similar grounds.

Art Unit: 3663

- Regarding claim 2, Dame discloses in Fig. 3C, icon 56, and Gibbs discloses dotted and straight lines in Figs. 15-19.
- Regarding claim 3, Dame discloses downlink messages [Fig. 3, #46-52] and [0003-0004].
- Regarding claims 4-6 and 9, the limitations thereof are encompassed by the scope of claim 24 and are rejected over similar grounds.
- Regarding claim 7, in general, performing a function automatically by a machine is obvious over doing the same procedure manually by a person. Specifically, it would have been obvious to automatically change the flightplan as soon as both parties (pilot and ATC) confirmed the change. This would have been one obvious advantage for integrating the protocol of Dame into the FMS of Gibbs.
- Regarding claim 8, Dame discloses response buttons 26-32 that would have been replicated in the FMS of Gibbs upon making the obvious combination of the two systems discussed above.
- Regarding claim 10, Gibbs discloses [Fig. 1, #108] and [Col. 3, lines 43-49].
- Regarding claim 11, Gibbs discloses [Fig. 1, #110] and [Col. 3, lines 42-43].
- Regarding claim 12, Gibbs discloses [Fig. 2].

### ***Conclusion***

7. The references made herein are done so for the convenience of the applicant. They are in no way intended to be limiting. The prior art should be considered in its entirety.

Art Unit: 3663

8. The prior art which is cited but not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ari M. Diacou whose telephone number is (571) 272-5591. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on (571) 272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/A. M. D./

Examiner, Art Unit 3663

22-Oct-08

/Jack W. Keith/

Supervisory Patent Examiner, Art Unit 3663